
HOUSE BILL No. 1626

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-4; IC 35-50-2-15.

Synopsis: Methamphetamine. Makes the possession of one or more chemical reagents or precursors with the intent to manufacture methamphetamine a Class C felony. Increases the penalty to a Class B felony if the person also possesses a firearm or is within 1,000 feet of a school, public park, housing complex, or youth center while committing the crime. Prohibits the possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine. Establishes a rebuttable presumption that a person (with certain exceptions) who possesses more than 24 grams of ephedrine, pseudoephedrine, or phenylpropanolamine intends to manufacture methamphetamine. Prohibits the sale of chemical reagents or precursors to a methamphetamine or other controlled substance manufacturer. Makes it a Class C felony for a person to purchase or rent a laboratory location for a methamphetamine lab, or to use a vehicle to manufacture methamphetamine, and requires the person to provide restitution for the costs of cleaning up the illegal laboratory. Provides a sentence enhancement of five years if a person manufactures methamphetamine in the presence of a child.

Effective: July 1, 2003.

Mahern, Chowning

January 16, 2003, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1626

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-48-4-14.5, AS AMENDED BY P.L.17-2001,
- 2 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2003]: Sec. 14.5. (a) As used in this section, "chemical
- 4 reagents or precursors" refers to one (1) or more of the following:
- 5 (1) Ephedrine.
- 6 (2) Pseudoephedrine.
- 7 (3) Phenylpropanolamine.
- 8 (4) The salts, isomers, and salts of isomers of a substance
- 9 identified in subdivisions (1) through (3).
- 10 (5) Anhydrous ammonia or ammonia solution (as defined in
- 11 IC 22-11-20-1).
- 12 (6) Organic solvents.
- 13 (7) Hydrochloric acid.
- 14 (8) Lithium metal.
- 15 (9) Sodium metal.
- 16 (10) Ether.
- 17 (11) Sulfuric acid.



C
o
p
y

- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.

(b) A person who possesses ~~anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1)~~ **one (1) or more chemical reagents or precursors** with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a ~~Class D~~ **Class C** felony. However, the offense is a ~~Class E~~ **Class B** felony if the person possessed:

- (1) a firearm while possessing ~~anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1)~~ **one (1) or more chemical reagents or precursors** with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) ~~anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1)~~ **one (1) or more chemical reagents or precursors** with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(c) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

- (1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
- ~~(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;~~
- ~~(3) (2)~~ Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- ~~(4) (3)~~ Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

~~(d) An offense under subsection (c) is a Class E felony if the person possessed:~~

- ~~(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine; a~~



schedule H controlled substance under IC 35-48-2-6; or
 (2) two (2) or more chemical reagents or precursors with intent to
 manufacture methamphetamine, a schedule H controlled
 substance under IC 35-48-2-6 in, on, or within one thousand
 (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(d) A person who sells, transfers, distributes, or furnishes
 chemical reagents or precursors to another person with knowledge
 or the intent that the recipient will use the chemical reagents or
 precursors to manufacture methamphetamine or any other
 schedule I, schedule II, or schedule III controlled substance
 commits illicit sale of methamphetamine precursors, a Class D
 felony.

(e) A person who possesses:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenylpropanolamine; or
- (4) the salts, isomers, and salts of isomers of a substance
 identified in subdivisions (1) through (3);

with intent to manufacture methamphetamine commits possession
 of methamphetamine precursors, a Class C felony. However, the
 offense is a Class B felony if the person possessed a firearm while
 committing the offense or if the person committed the offense while
 located in, on, or within one thousand (1,000) feet of school
 property, a public park, a family housing complex, or a youth
 program center.

(f) Except as provided in subsection (g), there is a rebuttable
 presumption that a person who possesses more than twenty-four
 (24) grams of:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenylpropanolamine; or
- (4) the salts, isomers, and salts of isomers of a substance
 identified in subdivisions (1) through (3);

has the intent to manufacture methamphetamine.

(g) Subsection (f) does not apply to the following:

- (1) A wholesale or retail distributor of drug products.
- (2) A wholesale drug distributor (as defined in
 IC 25-26-14-12) that is licensed by the Indiana board of



pharmacy.

(3) A pharmacist licensed by the Indiana board of pharmacy.

(4) A provider (as defined in IC 16-18-2-295) who possesses the chemical reagents or precursors within the scope of the provider's license, registration, or certificate.

(5) A researcher authorized to possess controlled substances by the Indiana board of pharmacy under IC 16-42-20-12.

SECTION 2. IC 35-48-4-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) A person who:

(1) purchases, rents, or otherwise procures a laboratory location; or

(2) uses a vehicle for purposes of a laboratory or otherwise to mix chemical reagents or precursors (as defined in IC 35-48-4-14.5(a));

with the intent to manufacture methamphetamine commits illegal operation of a methamphetamine laboratory, a Class C felony.

(b) In addition to any other penalty imposed for conviction of an offense under this section, a court shall order restitution under IC 35-50-5-3 to cover the costs of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.

(c) The amount collected under subsection (b) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (b).

SECTION 3. IC 35-50-2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) As used in this section, "in the presence of a child" means the following:

(1) When a minor is physically present during the activity.

(2) When the activity is conducted in:

(A) the residence of a minor;

(B) a building where a minor can reasonably be expected to be present;

(C) a room offered to the public for overnight accommodation; or

(D) any multiple unit residential building.

(b) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense involving the manufacture of methamphetamine under IC 35-48-4-1 or IC 35-48-4-17 sentenced to an additional fixed term

C
O
P
Y



1 of imprisonment if the state can show beyond a reasonable doubt
2 that the person committed the offense in the presence of a child.

3 (c) If the person was convicted of the offense in a jury trial, the
4 jury shall reconvene for the sentencing hearing. If the trial was to
5 the court or the judgment was entered on a guilty plea, the court
6 alone shall conduct the sentencing hearing under IC 35-38-1-3.

7 (d) A person may be sentenced to an additional fixed term under
8 this section if the jury (if the hearing is by jury) or the court (if the
9 hearing is to the court alone) finds that the state has proved beyond
10 a reasonable doubt that the person committed an offense involving
11 the manufacture of methamphetamine under IC 35-48-4-1 or
12 IC 35-48-4-17 in the presence of a child.

13 (e) The court shall sentence a person found to have committed
14 an offense involving the manufacture of methamphetamine under
15 IC 35-48-4-1 or IC 35-48-4-17 in the presence of a child to an
16 additional fixed term of five (5) years.

17 SECTION 4. [EFFECTIVE JULY 1, 2003] IC 35-48-4-14.5, as
18 amended by this act, and IC 35-48-4-17 as added by this act, apply
19 only to acts committed after June 30, 2003.

C
o
p
y

